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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/650,576	08/28/2003	Klaus Obendick	487.1076	8200
7590	05/18/2005			EXAMINER GUTMAN, HILARY L
DAVIDSON,DAVIDSON & KAPPEL, LLC WILLIAM C. GEHRIS 485 SEVENTH AVENUE 14TH FLOOR NEW YORK, NY 10018			ART UNIT 3612	PAPER NUMBER

DATE MAILED: 05/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/650,576	OBENDIEK, KLAUS
	Examiner Hilary Gutman	Art Unit 3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 13 April 2005.  
 2a) This action is **FINAL**.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-8 and 10-15 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 2-4 and 10-14 is/are allowed.  
 6) Claim(s) 1,5-7 and 15 is/are rejected.  
 7) Claim(s) 8 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 13 April 2005 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 5-7, & 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Jambor.

Jambor (6,053,568) discloses a top for a convertible vehicle, comprising a rigid moveable roof part (leftmost roof part 3 as seen in Figure 1) with an outer surface and an inner surface; a cover 5, 7 including a flexible sheet-like element, and a linkage (attached to a lower edge of rightmost roof part 3, see marked-up copy hereto attached) disposed between the outer surface of the roof part and the cover in a closed state of the convertible top, the linkage being moveable relative to the roof part during an opening movement of the convertible top, wherein the cover is moveable away from the roof part during the opening movement of the convertible top so as to create a space for the linkage.

With regard to claim 5, the cover includes a lateral border region, at least a portion 4 of the border region being secured to the roof part (generally at a front portion 4 thereof).

With regard to claim 6, the cover includes a strip of material.

With regard to claim 7, the cover is apparently disposed at a lateral border region of the roof part in the closed state of the convertible top (Figure 5).

With regard to claim 15, the cover is provided separately from an inner surface of the roof part (as best seen in Figure 1).

*Allowable Subject Matter*

3. Claims 2-4 and 10-14 are allowed.
4. Claim 8 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Response to Arguments*

5. Applicant's arguments filed 4/13/05 have been fully considered but they are not persuasive.

With regard to the drawings and the claims, the objections therefore have been removed.

With regard to the claim rejections, the applicant argues Jambor does not describe the linkage disposed between the outer surface of the roof part and the cover in the closed state that is moveable relative to the roof part. The examiner , disagrees and believes the cover part is moveable relative to a linkage (see marked-up copies of Figures 1 and 2, hereto attached).

With regard to new claim 15, this claim too has been rejected using the Jambor reference (see rejection set forth above and marked-up copies of Figures 1 and 2, hereto attached).

*Conclusion*

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hilary Gutman whose telephone number is 703-305-0496.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 703-308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

8. **Any response to this final action should be mailed to:**

Box AF  
Assistant Commissioner for Patents  
Washington, D.C. 20231

**or faxed to:**

(703) 872-9327, (for formal communications; please mark "EXPEDITED PROCEDURE")

**or:**

(703) 746-3515, (for informal or draft communications, please clearly label "PROPOSED" or "DRAFT").

  
Hilary Gutman  
May 12, 2005

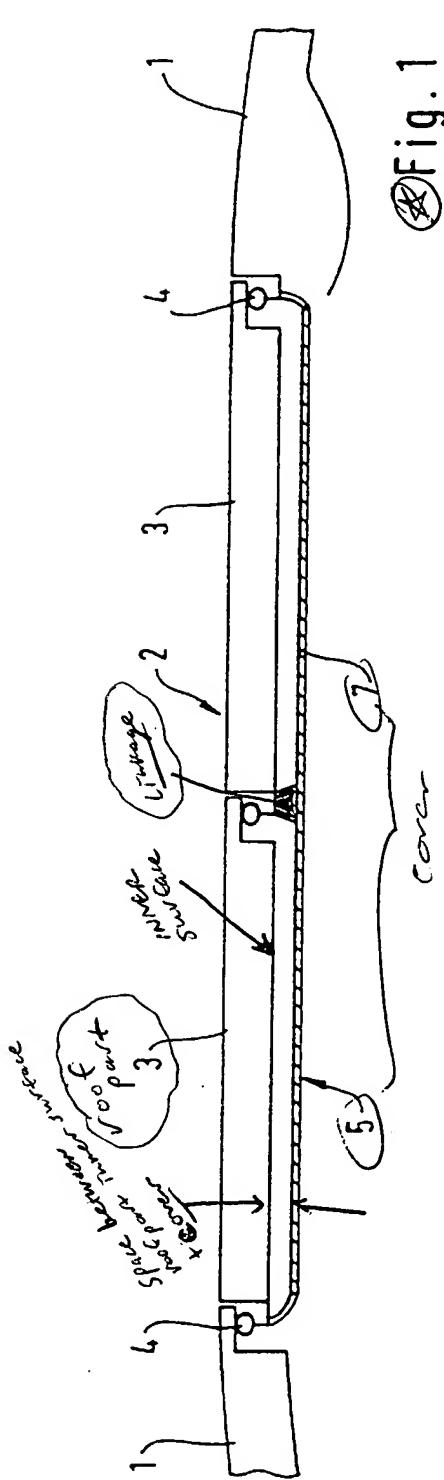


Fig. 1

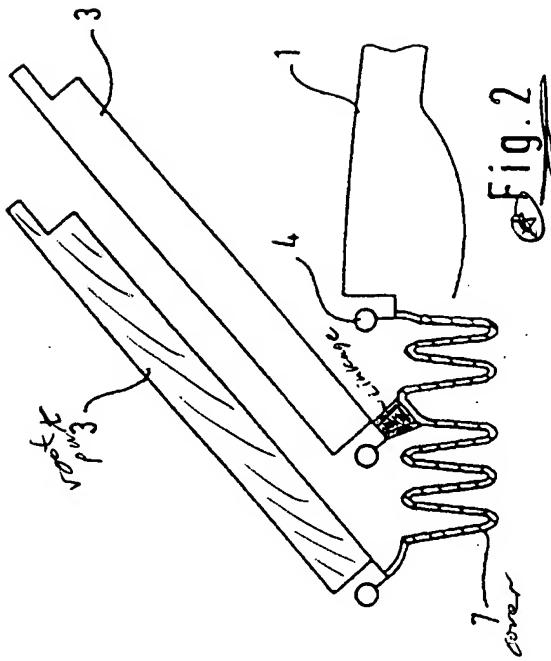


Fig. 2

